

KEVIN V. RYAN (CSBN 118321)  
 United States Attorney  
 JOANN M. SWANSON (CSBN 88143)  
 Chief, Civil Division  
 CHINHAYI J. COLEMAN (CSBN 194542)  
 Assistant United States Attorney

450 Golden Gate Avenue, Box 36055  
 San Francisco, California 94102-3495  
 Telephone: (415) 436-7073  
 FAX: (415) 436-6748

Attorneys for Defendant JO ANNE B. BARNHART, Commissioner, Social Security  
 Administration

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN FRANCISCO DIVISION

PATRICIA HESTER,

Plaintiff,

v.

JO ANNE B. BARNHART, Commissioner,  
 Social Security Administration,

Defendant.

No. C 04-3511 TEH

~~[PROPOSED]~~ STIPULATED  
 PROTECTIVE ORDER

Subject to the approval of this Court, the parties hereby stipulate to the following  
 protective order.

1. In connection with discovery proceedings in this action, the parties may designate  
 any document, thing, material, testimony or other information derived therefrom, as  
 "Confidential" under the terms of this Stipulated Protective Order (hereinafter "Order").

2. Confidential documents shall be so designated by stamping copies of the  
 document to a party with the legend "CONFIDENTIAL." Stamping the legend  
 "CONFIDENTIAL" on the cover of any multipage document shall designate all pages of the  
 document as confidential, unless otherwise indicated by the producing party.

[PROPOSED] STIPULATED PROTECTIVE ORDER  
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3. Testimony taken at a deposition, conference, hearing or trial may be designated as confidential by making a statement to that effect on the record at the deposition or other proceeding. Arrangements shall be made with the court reporter taking and transcribing such proceeding to separately bind such portions of the transcript containing information designated as confidential, and to label such portions appropriately.

4. Material designated as confidential under this Order, the information contained therein, and any summaries, copies, abstracts, or other documents derived in whole or in part from material designated as confidential (hereinafter "Confidential Material") shall be used only for the purpose of the prosecution, defense, or settlement of this action, and for no other purpose.

5. The parties anticipate that documentation concerning production levels of government employees who are third-party non-litigants may be relevant in this case. The parties hereby agree that the aforementioned documentation may be produced only to "qualified persons" designated in Paragraph 6 below, and only after execution of the non-disclosure agreement described in Paragraph 6 below.

6. Confidential Material produced pursuant to this Order may be disclosed or made available only to the Court, to counsel for a party (including the paralegal, clerical, and secretarial staff employed by such counsel), and to the "qualified persons" designated below:

- (a) a party, or an officer, director, or employee of a party deemed necessary by counsel to aid in the prosecution, defense, or settlement of this action;
- (b) experts or consultants (together with their clerical staff) retained by such counsel to assist in the prosecution, defense, or settlement of this action;
- (c) court reporter(s) employed in this action;
- (d) a witness at any deposition or other proceeding in this action; and
- (e) any other person as to whom the parties in writing agree.

Prior to receiving any Confidential Material, each "qualified person" shall be provided with a copy of this Order and shall execute a nondisclosure agreement in the form of Attachment A, a copy of which shall be provided forthwith to counsel for each other party and for the parties.

1           7.       Depositions shall be taken only in the presence of qualified persons.

2           8.       Nothing herein shall impose any restrictions on the use or disclosure by a party of  
3 material obtained by such party independent of discovery in this action, whether or not such  
4 material is also obtained through discovery in this action, or from disclosing its own Confidential  
5 Material as it deems appropriate. This applies, but is not limited to, information disseminated  
6 pursuant to the Public Records Act.

7           9.       In the event that any Confidential Material is used in any court proceeding in this  
8 action, it shall not lose its confidential status through such use.

9           10.      This Order shall be without prejudice to the right of the parties (a) to bring before  
10 the Court at any time the question of whether any particular document or information is  
11 confidential or whether its use should be restricted; or (b) to present a motion to the Court under  
12 Federal Rule of Civil Procedure 26(c) for a separate protective order as to any particular  
13 document or information, including restrictions differing from those as specified herein. The  
14 burden of proof of showing that protection is warranted under this Order is on the party seeking  
15 protection. This Order shall not be deemed to prejudice the parties in any way in any future  
16 application for modification of this Order.

17          11.      This Order is entered solely for the purpose of facilitating the exchange of  
18 documents and information between the parties in this action without involving the Court  
19 unnecessarily in the process. Nothing in this Order nor the production of any information or  
20 document under the terms of the Order nor any proceedings pursuant to this Order shall be  
21 deemed to have the effect of an admission or waiver by either party or of altering the  
22 confidentiality or non-confidentiality of any such document or information or altering any  
23 existing obligation of any part or the absence thereof.

24          12.      This Order shall survive the final termination of this action, to the extent that the  
25 information contained in Confidential Material is not or does not become known to the public,  
26 and the Court shall retain jurisdiction to resolve any dispute for no more than six months after  
27 final termination of the action concerning the use of information disclosed hereunder. Upon  
28

1 termination of this case, counsel for the parties shall assemble and return to each other all  
2 documents, material and deposition transcripts designated as confidential and all copies of same,  
3 or shall certify the destruction thereof.

4 IT IS SO AGREED AND STIPULATED.

5 *December 1, 2005*  
6 Dated: ~~November~~ *December 1*, 2005

*Lawrence W. Fasano, Jr.*  
\_\_\_\_\_  
LAWRENCE W. FASANO, JR.  
Attorney for Plaintiff Patricia Hester

8 *December 8*  
9 Dated: ~~November~~ *December 8*, 2005

10 KEVIN V. RYAN  
United States Attorney

*Chinhay J. Coleman*  
\_\_\_\_\_  
CHINHAYI J. COLEMAN  
Assistant United States Attorney

13 **ORDER**

14 PURSUANT TO STIPULATION, IT IS SO ORDERED.

15  
16 DATED: 12/14/05

*Thelton E. Henderson*  
\_\_\_\_\_  
HONORABLE THELTON E. HENDERSON  
United States District Judge

Attachment A

**NONDISCLOSURE AGREEMENT**

I, Patricia Hester, do hereby attest that I am fully familiar with the terms of the Stipulated Protective Order entered in Patricia Hester v. Jo Anna Barnhart, Case Number C 04-3511 TEH, and hereby agree to comply with and be bound the terms and conditions of said Order unless and until modified by further Order of this Court. I hereby consent to the jurisdiction of said Court for purposes of enforcing this Order.

Dated: 11-10-05

Patricia Hester

TOTAL P.07